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**Clean Water Act 404(g) Rulemaking  
Pre-proposal State Engagement Meeting  
December 5, 2018  
US EPA, Washington, DC  
and via Webinar  
BREAK OUT Approach**

**Note:** this will be an in-person meeting with availability for state participation via webcast.

- 10:00**      **Welcome, Purpose of Meeting,** *David Ross, Assistant Administrator for Office of Water*
- 10:15**      **Overview, Agenda, and Introductions,** *Patrick Field, CBI, Facilitator*
- Participants offer name and affiliation only, including those on the phone
- 10:30**      **Overview of 404(g) rulemaking,** *John Goodin and Kathy Hurd, Acting Director, Office of Wetlands, Oceans and Watersheds*
- Why EPA is updating this regulation?
  - What was the role of the FACA subcommittee and what were their recommendations?
  - What are additional issues EPA is considering addressing in this rulemaking?
- 10:50**      **Introduction to Themed Discussions – for input for proposed rule**  
The discussions will be focused around four key topics. To start small group discussions, EPA staff will present brief background on the topic, no more than 5 to minutes each.
- Definitions of Assumed and Retained Waters and Wetlands – *Kathy Hurd, Office of Wetlands, Oceans and Watersheds, and Jacob Strickler, Conflict Prevention and Resolution Center*
    - Determination of “retained” and “assumed” waters and wetlands under §233.11(h) and §233.14(1) (two parts, use of the Section 10 list, and the Subcommittee’ recommendations on administrative determination of wetlands)
    - Roles of EPA, USACE, and States and Tribes in, and process for, determining and deciding assumed and retained waters
  - Enforcement and Compliance, *Jeff Spier, Office of Enforcement and Compliance, Water Enforcement Division, and Simma Kumpchan, EPA Office of General Counsel, Water Law Office*
    - Clarity on expectations; update for consistency with present statutes and regulations
  - Partial Assumption, *Ruth Chemerys and Nick Warren, Office of Wetlands, Oceans and Watersheds*

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- Is this of interest? If so, how would you structure this in your state for clarity and ease of administration?
- What are the benefits, how would this differ from SPGPs?
- Calculating Economic Costs and Benefits of the Rule, Dolores Wesson and Chris Laabs, *Office of Wetlands, Oceans and Watersheds*

### 11:30 Brief Break and Move to Small Tables

### 11:40 Break Out Input – random assignment by sticker/number put on nametag

- The participants will break down into five groups. They will have 20 minutes each to comment on each of the 4 topics, moving in “round robin” fashion from one topic to another as a group. The EPA staff lead and a note taker will be available at each topic table. Staff move the “topic” from table to table, along with the flip chart.
- The facilitator/notetaker are recording the same topic conversation across all four groups to provide a summary of all comments
- CBI’s Association, Sofia Soto Reyes will be available to take notes and ensure groups move through the process in a timely fashion
- The on-line participants will cover all topics via the Webinar with a facilitator during the same time – *Patrick Field, CBI facilitator and CBI notetaker and Chandra Middleton, Office of Wetlands, Oceans and Watershed*

### 12:30 Lunch

### 1:15 Continue Break out Groups

### 2:00 Report Outs

- Each group lead will report out a summary of input provided on that topic (5 minutes each) including the on-line breakout group
- The participants will have another opportunity to offer brief additional comments on that topic

### 3:00 Other Issues, Questions and Comments

- Participants will raise any additional issues, themes, and topics that were not covered in the focused discussions above through questions, comments, and answers with EPA.
- For example, what are other issues they want clarity on, whether through rule text, preamble, FAQs, or other means.
- Webinar participants will be able to give final comments as well

### 3:45 Next Steps

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- EPA to review key next steps, milestones and schedule by quarter for rule development – *John Goodin, Acting Director, Office of Wetlands, Oceans and Watersheds*

**4:00**

**Adjourn**